



2132

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant and Inventor	Ho Keung, TSE.
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Application Number	09/112,276
Group Art Unit	2132
Examiner	Gilberto Barron Jr.
Postal Address	P.O. Box 70492, KLN Central Post Office, Hong Kong.
H.K. Tel & FAX	(852) 8105, 1090 (852) 8105, 1091
Email	tse_2004@yahoo.com.hk

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Technology Center 2100

*By Fax*

Hon. Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Sir,

**Petition for Patent Term Extension**

I request for a review of the 0 day patent term extension as indicated on the "Determination of Patent Term Extension under 35 U.S.C. 154(b)" dated 07/17/2003, for the following reasons :

**"Double Patenting", why ?**

The above-identified application 09/112,276, claims priority right from a mother application 08/587,448 filed on Dec 1,1995.

But both applications has basically the same description and they both claim the same invention but in different claim languages. And therefore, in 2002, when the prosecution of mother application 08/587,448 which was previously under Appeal, was reopened in response to a **"Remand Order" issued by the Board of Appeals** which should be considered as "a decision reversing an adverse determination of patentability", a non-final office action was issued in which a Provisional Double Patenting rejection is raised in P.2, section 3.

The same rejection is also readable on a final office action issued in respect to application 09/112,276 at about the same time.

The mother application 08/587,448 is abandoned in July 8, 2003, to remove the Provisional Double Patenting rejection of the above-identified application 09/112,276.

The above-identified application 09/112,276 was filed during the period the mother application 08/587,448 was under appeal, with a view to ensure a re-examination procedure which should take place following the Appeal, wouldn't be delayed by the Appeal for an intolerable long time.

As expected, in the beginning of 2001, one year before the above-mentioned "Remand Order", examination of application 09/112,276 began and a first office action issued, and a lot of works had been done by the Examiner and applicant (me!) early in 2001 up to the above-mentioned re-opening of prosecution of mother application 08/587,448. The Examiner raised a # of new rejections, new references(including Haas et al, Wiedemer et al) and some was overcome by me in that period and the application 09/112,276 was at last allowed.

**What should have happened if Examiner did not reject the mother application incorrectly in 1997 ?** Then, I wouldn't have to file the above-identified application 09/112,276 at all.

Examiner Laufer, who was in charge, should have in 1997 already raised rejections against the mother application 08/587,448 in much the same way as that readable on the first office action issued in respect to application 09/112,276 in early 2001.

And, I should have an opportunity to amend the mother application 08/587,448 and to make it allowable back in 1997 in much the same way as I have done to application 09/112,276 in 2003.

The above-identified application 09/112,276 is actually the same application as the mother application 08/587,448, it is an effort of mine to shorten the wait time for Appeal Board decision, to overcome a # of incorrect rejections of Examiner Laufer.

Accordingly, an extension to the patent term to the patent to be issued from the above-identified application 09/112,276, equivalent to the period beginning from the filing of Appeal Brief for the mother application 08/587,448 in 1997 until the issuance of first office action in respect to the above-identified application 09/112,276, should be granted and is respectfully requested.

**Petition Fee**

Submitted herewith is a draft \$ 130 for the petition fee

Please note that patent to be issued from the above-identified application 09/112,276 is not subject to a terminal disclaimer.

Respectfully submitted,

Ho Keung, Tse.

A handwritten signature in black ink, appearing to read 'Ho Keung, Tse.', is written over a horizontal line.